



## BACKGROUND

The present patent application, U.S. patent application serial No. 10/684,758 ("the '758 application"), is a child of parent patent application serial No. 09/976,578 (the '578 application), filed October 12, 2001. The parent '578 application claims priority to Japanese patent application 2000-398854, filed December 27, 2000. The parent '578 application received a Notice of Allowance on June 25, 2003, and issued as U.S. Patent No. 6,654,231 on November 25, 2003.

A request for a Rule 53(b) continuation application was filed on October 14, 2003, a date prior to issuance of U.S. Patent No. 6,654,231 (the parent '578 application). The Rule 53(b) continuation application is the '758 application. The submitted '758 application was filed with a specification (23 pages), a one-page abstract, a preliminary amendment, a declaration /oath, the appropriate filing fee, 4 sheets of drawings, and an Information Disclosure Statement, as evidenced by 1) a photocopy of the Certificate of Mailing via U.S. Express Mail, enclosed as Exhibit 2; and 2) a photocopy of the submitted postcard, enclosed as Exhibit 3. Further evidence of the submission of all of the required documents is the acknowledged receipt by the Patent and Trademark Office of the submitted postcard, enclosed as Exhibit 4, which lists the submitted documentation. The postcard includes the assigned serial number and acknowledges receipt of all the documents identified thereon.

Further proof of the submission of all of the required documents is a declaration of Sherry B. Kolber, enclosed as Exhibit 5, who is a legal secretary / patent assistant in the Los Angeles office of Pillsbury Winthrop, attorney for applicant. Ms. Kolber has extensive knowledge in the submission of patent applications and the rules of the

Patent and Trademark Office. In Sherry B. Kolber's declaration, she certifies that she submitted the above-identified documents to the United States Patent and Trademark Office via Express Mail on October 14, 2003.

The Notice of Incomplete Nonprovisional application was mailed on January 16, 2004. The Notice of Incomplete Nonprovisional Application identified that 1) the specification was missing; and 2) that the oath or declaration is missing.

#### REQUEST

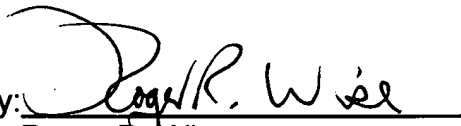
Applicant believes that he is entitled to the filing date of October 14, 2003, which is the date the '758 application was mailed via U.S. Express Mail. Applicant requests that the Office of Petitions review the applicant's submission and award the '758 application the filing date of October 14, 2003. This request is based on the fact that the 1) Certificate of Mailing Via U.S. Express Mail; 2) the applicant's submitted postcard; and 3) the received postcard from the United States Patent and Trademark Office are **prima facie evidence** that 1) a specification and 2) an oath / declaration for the '758 application were filed on October 14, 2003. In addition, Ms. Kolber's declaration further provides support that the specification and oath / declaration for the '758 application were filed on October 14, 2003.

Please note that a new declaration / power of attorney is not required to be submitted because the above-mentioned application is a continuation of the parent '578 application, and the original oath / declaration from the parent '578 application was submitted as part of the October 14, 2003 application filing. The filing of the original oath / declaration is evidenced by the certificate of mailing via express mail, the two postcards, and Sherry B. Kolber's declaration.

Applicant has included a courtesy copy of the specification, figures, a preliminary amendment, and oath / declaration, as submitted on October 14, 2003, for the Examiner's convenience in case this documentation has been misplaced by the Office.

Respectfully Submitted:

Date: January 29, 2004

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